

**OFFICE OF TAX APPEALS**  
**STATE OF CALIFORNIA**

In the Matter of the Appeal of: ) OTA Case No. 250118454  
S. TANNER AND )  
L. TANNER )  
\_\_\_\_\_ )

**OPINION**

Representing the Parties:

For Appellants: S. Tanner  
L. Tanner

For Respondent: Kaleigh Adams, Graduate Student Assistant

K. SHELTON, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, S. Tanner (appellant when referred to individually) and L. Tanner (appellants when referred to collectively) appeal an action by the Franchise Tax Board (respondent) denying appellants' claim for refund of \$8,785 for the 2019 tax year.

Appellants waived the right to an oral hearing; therefore, the matter was submitted to the Office of Tax Appeals (OTA) on the written record pursuant to California Code of Regulations, title 18, section 30209(a).

**ISSUE**

Whether appellants timely filed their claim for refund of \$8,785 for the 2019 tax year under the statute of limitations.

**FACTUAL FINDINGS**

1. Respondent did not have a record of appellant timely filing a Form 540, California Resident Income Tax Return, for the 2019 tax year. However, respondent received third-party information indicating that appellant received income in the 2019 tax year. Respondent did not receive any third-party information indicating that appellant L. Tanner received any income in the 2019 tax year.
2. Respondent issued a Request for Tax Return (Request) to appellant for the 2019 tax year. In the Request respondent indicated that it received information that appellant

- received income from three sources. The Request that respondent mailed to appellant was returned to respondent as “undeliverable.” Appellant did not respond to the Request.
3. Respondent issued a second Request for Tax Return, to appellant for the 2019 tax year. Appellant did not respond to this Request, either.
  4. Subsequently, respondent issued a Notice of Proposed Assessment (NPA) to appellant for the 2019 tax year. The NPA stated that respondent received a Form W-2 reporting that appellant was paid wages of \$234,885, a Form 1099, reporting that appellant was paid \$11,000, and Forms 1099-B, Proceeds from Broker and Barter Exchange Transactions, reporting that appellant was paid \$28,937. Respondent determined that the three payments were taxable income and that appellant had a total tax liability of \$22,305, California income tax withholdings of \$16,222, tax due of \$6,083.00, and imposed a late-filing penalty of \$1,520.75 plus interest, for a total amount due of \$8,125.09. Appellant did not respond to the NPA.
  5. Respondent issued two separate notices to appellant, each indicating an increased amount due because of accumulating interest. Appellant failed to respond to either notice.
  6. Later, respondent issued appellant a Final Notice Before Lien and Levy (Final Notice), which was respondent’s final demand for payment.
  7. Sometime after respondent issued the Final Notice, appellant requested an installment agreement from respondent. Respondent did not offer appellant an installment agreement, but, instead, offered her a provisional payment plan on December 21, 2022. On January 10, 2023, appellant made a bill payment of \$150. Appellant failed to comply with the provisional payment plan. Accordingly, on February 27, 2023, respondent issued appellant a Provisional Payment Plan Default Notice, which notified appellant that she was in default on the provisional payment plan and that respondent was cancelling it.
  8. From July 11, 2023, to September 5, 2023, respondent garnished appellant’s wages in the amount of \$8,407.55.
  9. Appellants filed a joint amended Form 540, California Resident Income Tax Return, for the 2019 tax year on September 23, 2024 (amended return). On the amended return for the 2019 tax year, appellants reported total tax of \$15,960, California income tax withholdings of \$16,222, and claimed a refund of \$262.
  10. Appellants’ amended return is the first tax return for which respondent has a record.

11. On November 6, 2024, appellants resubmitted the same amended return.
12. Respondent treated appellants' amended return as a claim for refund. On November 21, 2024, respondent issued a Statute of Limitations letter to appellants, notifying them that respondent processed their amended return, and that appellants' account reflected an overpayment of \$8,785.41.<sup>1</sup> However, respondent disallowed appellants' claim for refund due to the expiration of the statute of limitations.
13. On December 9, 2024, appellants made a payment of \$1,335.11. Respondent states that it will refund or credit the payment at the conclusion of this appeal.
14. Appellants timely appealed.

### DISCUSSION

If a taxpayer has made an overpayment of any personal income tax liability imposed under the California Personal Income Tax Law for any year for any reason, the amount of the overpayment may generally be credited against any amount due from the taxpayer and the balance may be refunded to the taxpayer. (R&TC, § 19301; *Appeal of Cornbleth*, 2019-OTA-408P.) However, the taxpayer cannot receive a credit or refund unless the taxpayer filed a claim for refund within the later of: (1) four years from the date the return was filed, if the return was timely filed within an extended due date; (2) four years from the due date for filing a return (determined without regard to any extension of time to file); or (3) one year from the date of the overpayment. (R&TC, § 19306(a).)

The due date for an individual taxpayer to have filed a return and paid the tax for the 2019 tax year was postponed from April 15, 2020, to July 15, 2020, due to the COVID-19 pandemic. (R&TC, §§ 18566, 19001; see [www.ftb.ca.gov/about-ftb/newsroom/news-releases/2020-5-april-15-tax-day-postponed-until-july-15-2020.html](http://www.ftb.ca.gov/about-ftb/newsroom/news-releases/2020-5-april-15-tax-day-postponed-until-july-15-2020.html).) The postponement of the filing and payment date of April 15, 2020, did not extend the period within which the taxpayer could claim a refund, however. (*Appeal of Nguyen*, 2025-OTA-333P.)

The taxpayer has the burden of proof in showing entitlement to a credit or refund and that the claim is timely. (Cal. Code Regs., tit. 18, § 30219(a); *Appeal of Jacqueline Mairghread Patterson Trust*, 2021-OTA-187P.) The language of the statute of limitations must be strictly construed, and there is generally no reasonable cause or equitable basis for suspending the statutory period. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.)

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<sup>1</sup> The Statute of Limitations letter does not explain how respondent determined that appellants' account reflected an overpayment of \$8,785.41. Appellants excluded \$0.41 of the overpayment from their appeal to OTA.

Appellants claim on appeal that they filed a 2019 tax year return on extension and request “leniency due to the fact that we submitted the original 2019 return on time.” However, appellants did not provide a copy of any return for the 2019 tax year or other evidence, such as receipt for mailing, that they filed prior to the time that they filed the amended return on September 23, 2024. Therefore, they did not file their 2019 tax year return timely. (See *Appeal of Fisher*, 2022-OTA-337P.)

Accordingly, the period within which appellants were required to file a claim for a refund with respect to the 2019 tax year ended on the later of either (a) four years from the due date for filing the 2019 return, or (b) one year from the date of the overpayment. (R&TC, § 19306(a).) Four years after the due date for filing the 2019 return was April 15, 2024. However, appellants filed the claim for refund, their tax return, on September 23, 2024, which is more than four years after the due date for filing the return.

Income tax withholdings are deemed paid on the original due date of the return. (R&TC, § 19002(c)(1).) The withholdings of income tax from appellant’s wages were deemed paid on April 15, 2020, and one year from the date of the overpayment was April 15, 2021. Between January 10, 2023, and September 5, 2023, respondent collected payments from appellants, and one year from the latest payment was September 5, 2024. However, appellants filed their claim for refund on September 23, 2024, which is more than one year after the overpayments. Therefore, appellants’ claim for refund was untimely under R&TC section 19306(a).

OTA cannot overlook the untimeliness of a taxpayer’s refund claim and can only grant relief if there is an exception to the statute of limitations. (See *Appeal of Estate of Gillespie*, 2018-OTA-052P.) An exception to the statute of limitations for filing a refund claim is when a taxpayer is financially disabled, that is, unable to manage his or her financial affairs due to a medically determinable physical or mental impairment that is either deemed to be a terminal impairment or is expected to last for a continuous period of not less than 12 months, and the taxpayer has no spouse or other legally authorized person to act on the taxpayer’s behalf. (R&TC, § 19316.) Appellants do not provide any evidence of financial disability during the time that the refund claim was due.

Appellants’ failure to file a claim for refund within the period of limitations bars appellants from receiving a refund. (See *Appeal of Estate of Gillespie*, *supra*.) Although the result of fixed deadlines may appear harsh, the occasional harshness is redeemed by the clarity imparted. (*Appeal of Jacqueline Mairghread Patterson Trust*, *supra*.) For these reasons, appellants’ claim

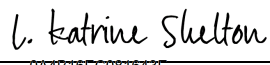
for credit or refund for the 2019 tax year is barred under the statute of limitations described in R&TC section 19306(a).

HOLDING

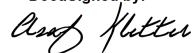
Appellants did not timely file their claim for refund of \$8,785 for the 2019 tax year under the statute of limitations.

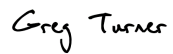
DISPOSITION

On appeal, respondent agrees to allow a refund or credit of appellants' \$1,355.11 payment. Otherwise, OTA sustains respondent's action denying appellants' claim for refund.

Signed by:  
  
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L. Katrine Shelton  
Administrative Law Judge

We concur:

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Asaf Kletter  
Administrative Law Judge

Signed by:  
  
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Greg Turner  
Administrative Law Judge

Date Issued: 12/31/2025